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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/406,531	09/27/1999	ODD N. ODDSEN JR.	3757.3002	1718

530 7590 06/06/2003

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EXAMINER

WOOD, KIMBERLY T

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 06/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/406,531

Applicant(s)

ODDSEN, ODD N.

Examiner

Kimberly T. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 36-40, 42-72 and 74-87 is/are pending in the application.
- 4a) Of the above claim(s) 37-40, 44-49 and 55-62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 36, 42, 43, 50-54, 63-72, 74-87 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 288
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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***Office Action***

This is the sixth office action for serial number 09/406,531, entitled Configurable Mount, in response to Amendment F filed on March 4, 2003.

***Election/Restriction***

Claims 44-49 and 55-62 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 9. Claims 37-40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species III (figure 8), there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 9

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 36-40, 42, 43, 74, 81, 63-66, 76, and 83 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 36 recites the limitation "a plurality of attachments" in line 5. There is improper antecedent basis for this limitation in the claim ("a" should be deleted and --the-- or --said-- should be inserted because "plurality of attachments was first recited in line 2)

Claim 36 recites the limitation "a device" and "a surface" in line 6. There is improper antecedent basis for this limitation in the claim.

Claim 40 recites the limitation "at least one buffering pad" in line 2. There is improper antecedent basis for this limitation in the claim.

Claim 63 recites the limitation "a plurality of attachments" in line 5 . There is improper antecedent basis for this limitation in the claim.

Claim 63 recites the limitation "a device" and "a surface" in line 6. There is improper antecedent basis for this limitation in the claim.

Claims have been rejected under 35 U.S.C. 112 for the above reasons. Please note that the Examiner may not have pointed out each and every example of indefiniteness. The applicant is required to review all the claim language to make sure the claimed invention is clear and definite.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

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has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims **36, 63, 64, 72, 76, 78, 79, 80, 83, and 85** are rejected, as best understood, under 35 U.S.C. 102(b) as being anticipated by Koskinen 3,568,963. Koskinen discloses a kit (figures 1-9) comprising a shaft holder (24 and 24') having a bottom wall (28") with first hole (where 30 is received), a threaded rod (32 ), nut (44), a first member with first flange (figure 6, element 70 (top horizontal portion)) with second hole (where 32 is received in 70) and second flange (70 vertical portion), a clamping mechanism and at least one screw or adjustment device ( 74 and bottom perpendicular element of 70). The embodiments as disclosed in figures 1-9 constitute a kit since the elements of the inventions (34, 70, and different shaft holders 24, 24' and 60) can be configured in different ways to make the invention attach to various surfaces as disclosed by the patent.

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **42, 65, 74, and 81** are rejected under 35 U.S.C. 103(a) as being unpatentable over Koskinen in view of Rossman 5,277,392. Koskinen discloses all of the limitations of the claimed invention except for the at least one screw and at least a third hole formed in the second flange. Rossman teaches that it is known to have a third hole (40) formed in a second flange (38). It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Koskinen to have included the hole in the second flange as taught by Rossman for allowing the device to be attached to a vertical surface.

Claims **86 and 87** are rejected under 35 U.S.C. 103(a) as being unpatentable over Koskinen 3,568,963 in view of Higgins 1,785,518. Koskinen discloses all of the limitations of the claimed invention except for the second member having a third and fourth flanges. Higgins discloses a shaft holder (22) having a hole (where 31 is received); a plurality of threaded rods or screws (31, 47, and 41; see page 2, lines 113); an attachment means including a first member (33) having a flange (33) with a hole (35) and perpendicular flange (44) with a hole (42), a second

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member (36) having a flange (36) with a hole (where screw 47 is received) and another flange (39) with a hole (40) to receive a threaded rod (41), an adjustment means (47). It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Koskinen to have substituted the bottom part of member (70) and to have replaced it with the second member having a third and fourth flange as taught by Higgins since both are mechanical clamping members and Higgins would provide a better means of securing the device. In regards to claim 87 applicant is to refer to figure 2 (Koskinen).

Claims 43, 50-54, 66-71, 75, 77, 82, and 84 rejected under 35 U.S.C. 103(a) as being unpatentable over Koskinen 3,568,963 in view of Higgins in further view of Murdock 2,950,836. Koskinen discloses all of the limitations of the claimed invention except for the second member having a third and fourth flange with holes. Higgins discloses a shaft holder (22) having a hole (where 31 is received); a plurality of threaded rods or screws (31, 47, and 41; see page 2, lines 113); an attachment means including a first member (33) having a flange (33) with a hole (35) and perpendicular flange (44) with a hole (42), a second member (36) having a flange (36) with a hole (where screw 47 is received) and another flange (39) with a hole (40) to receive a threaded rod (41), an adjustment means (47). It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Koskinen to have included a hole in the second flange (Koskinen) and to have made the clamp (70 Koskinen) to have the fourth and fifth flanges with holes as taught by Higgins since both are mechanical clamping members and Higgins would provide a better means of securing the device. Murdock discloses a clamp (4) having a

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clamping plate (42) with hole and buffering pads (43). It would have been obvious one having ordinary skill in the art to have modified Koskinen in view of Higgins to have included the clamping plate to the end of the adjustment means as taught by Murdock for the purpose of providing a more secure means of attachment.

***Response to Arguments***

Applicant's arguments filed March 4, 2003 have been fully considered but they are not persuasive.

In regards to the comments regarding the election of species the examiner believes that the claims are not generic because claims 36, 50, 63, 67, and 72 include the limitations of first and second flanges which are not a part of the Species III shown in figure 8.

In regards to the applicant's argument that Koskinen does not disclose a kit, the examiner would like to point out that the embodiments as disclosed in figures 1-9 constitute a kit since the elements of the inventions (34, 70, and different shaft holders 24, 24' and 60) can be configured in different ways allowing the invention to attach to various surfaces as disclosed by the patent. The invention would need to be packaged as it is well known in the art for distribution and/or sale. The kit is constituted by the packaging of the various components as disclosed in the patent in figures 1-9 and then would be left up to the individual to determine how the shaft holder would be attached to the surface either by clamp (figure 6) or mount system (figure 2).



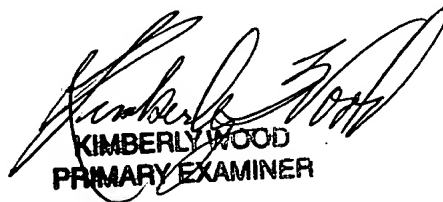
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In regards to the applicant's arguments that Koskinen does not disclose a shaft holder attached to a first member having a first flange, the examiner would like to point out that the shaft holder (24 or 24') is attached directly to the first member (70) via the threaded rod (32). The applicant's shaft holder (20) is also attached to the first member (32) via a member (56).

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Wood whose telephone number is (703) 308-0539. The examiner can normally be reached on Monday-Thursday from 7:30 AM to 5:00 PM. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168. The fax number for an Official Amendment or Response is (703) 872-9326. The fax number for an Official After Final Amendment or Response is (703) 872-9327.

Kimberly Wood  
Primary Examiner  
June 2, 2003



KIMBERLY WOOD  
PRIMARY EXAMINER